IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 12779 of 2004

Between:

Sangepu Deva Sahayam S/o Jaya Rao
Co-Operative Society, Penggolanu, Gampalagudem Mandalam, Krishna District

..... PETITIONER

AND

1 The District Co-operative Officer, Krishna District at Machilipatnam
2 The Divisional Co-operative Officer, Nuzvid, Krishna District
3 The Deputy Registrar of Co-operative Societies, Nuzvid, Krishna District
4 Chair Person, Primary Agrl. Co-operative Society, Penugolanu, Gampalagudem Mandalam, Krishna District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more particularly one in the nature of Writ of Certiorari, calling for records notice dated 10-7-2004 passed by the 4th respondent herein is illegal, improper, and unjust and violationof Article 14 of the Constitution of India and Liable to be quashed and consequently direct the respondents herein to regularise the petitioner's services with all consequential benefits as Clerk.

Counsel for the Petitioner:MRS.Y.ANUPAMA DEVI

Counsel for the Respondent No.: GP FOR COOPERATION

The Court made the following :

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THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WRIT PETITION NO.12779 OF 2004

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O R D E R:

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In view of the orders passed in Review W.P.M.P.No.28829 of 2004, dated 01.12.2004, setting aside the dismissal order passed by this Court in W.P.No.12779 of 2004, this writ petition is restored and taken up for final disposal at the instance of both the learned counsel appearing for the parties.

It is the case of the petitioner that the 4th respondent-Chairperson, Primary Agricultural Co-operative Societies, Penugolam, issued notice, dated 10.07.2004, terminating the services of the petitioner with effect from 21.07.2004. On a perusal of the notice, dated 10.07.2004, it is seen that the services of the petitioner was terminated as per the directions of the authorities of the Andhra Pradesh Co-operative Department. This Court in W.P.No.3171 of 2003 and batch, dated 30.08.2004, observed that as long as the continuance of the employees of the Society is in conformity with Section 116-C of the Andhra Pradesh Co-operative Societies Act, their services cannot be removed without assigning any reasons, whatsoever. As per the provisions of Section 116-C of the Act, if the total salary amount payable to the employees of the So-operative Societies towards pay and allowances exceeds 2% of the working capital or 30% of the gross profit, in terms of actuals in a year, whichever is less, it is always open for the 4th respondent to terminate the services of its employees. But in this case, the 4th respondent Society removed the services of the petitioner on the directions of the authorities of the Co-

operative Department. If the directions of the authorities of the Co-operative Department are issued in violation of the statutory provisions, the Society cannot implement the said orders.

In view of the above facts and circumstances of the case, the impugned order, dated 10.07.2004 issued by the 4th respondent is set aside, keeping it open for the respondent authorities to take appropriate action against the petitioner, in accordance with the provisions of Section 116-C (1) read with Rules 28(4) and 36-B of the Andhra Pradesh Co-operative Societies Rules.

The writ petition is accordingly disposed of. No costs.

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V.ESWARAIAH.J

C.C.in one week

B/o

Tjs

DT.01.12.2004.

ASSISTANT REGISTRAR

To

1 The District Co-operative Officer, Krishna District at Machilipatnam
2 The Divisional Co-operative Officer, Nuzvid, Krishna District
3 The Deputy Registrar of Co-operative Societies, Nuzvid, Krishna District
4 Chair Person, Primary Agrl. Co-operative Society, Penugolanu, Gampalagudem Mandalam, Krishna District

5 2CCs to the G.P. for Co-operation, High Court of A.P., Hyderabad. (OUT).

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